

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON**

**RAFAEL MORA-CONTRERAS and
SHANE STAGGS,**

Plaintiffs,

v.

**COLETTE PETERS, DOUG YANCEY,
MEGHAN LEDDY, ZACHARY GOULD,
CRAIG PRINS, JERRY PLANTE,
JEREMY NOFZIGER, and JOHN DOES 1-
5,**

Defendants.

Case No. 6:18-cv-00678-SB

ORDER

Michael H. Simon, District Judge.

United States Magistrate Judge Stacie F. Beckerman issued Findings and Recommendation in this case on June 20th, 2019. ECF 40. Magistrate Judge Beckerman recommended that the Court grant Defendants' motion to dismiss (ECF 31) but provide Plaintiffs an opportunity to file a second amended complaint if they are able to cure the deficiencies identified by the Findings and Recommendation.

Under the Federal Magistrates Act (“Act”), the Court may “accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate.” 28 U.S.C.

§ 636(b)(1). If a party files objections to a magistrate judge’s findings and recommendations, “the court shall make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made.” *Id.*; Fed. R. Civ. P. 72(b)(3).

For those portions of a magistrate judge’s findings and recommendations to which neither party has objected, the Act does not prescribe any standard of review. *See Thomas v. Arn*, 474 U.S. 140, 152 (1985) (“There is no indication that Congress, in enacting [the Act], intended to require a district judge to review a magistrate’s report to which no objections are filed.”); *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003) (en banc) (holding that the court must review *de novo* magistrate judge’s findings and recommendations if objection is made, “but not otherwise”). Although in the absence of objections no review is required, the Magistrates Act “does not preclude further review by the district judge[] *sua sponte* . . . under a *de novo* or any other standard.” *Thomas*, 474 U.S. at 154. Indeed, the Advisory Committee Notes to Fed. R. Civ. P. 72(b) recommend that “[w]hen no timely objection is filed,” the Court review the magistrate judge’s recommendations for “clear error on the face of the record.”

Plaintiffs filed an objection. ECF 49. Plaintiffs argue that solitary confinement itself violates the Due Process Clause and therefore Plaintiffs stated a claim for violations of their procedural and substantive due process rights. The Court has reviewed *de novo* those portions of Magistrate Judge Beckerman’s Findings and Recommendation to which Plaintiffs have objected, as well as Defendants’ response. The Court agrees with Magistrate Judge Beckerman’s reasoning regarding Plaintiffs’ failure to state a claim and ADOPTS those portions of the Findings and Recommendation.

For those portions of Magistrate Judge Beckerman's Findings and Recommendation to which neither party has objected, this Court follows the recommendation of the Advisory Committee and reviews those matters for clear error on the face of the record. No such error is apparent.

The Court **ADOPTS** Magistrate Judge Beckerman's Findings and Recommendation, ECF 40. Defendants' Motion to Dismiss (ECF 31) is granted, but Plaintiffs have leave to file a second amended complaint.

IT IS SO ORDERED.

DATED this 22nd day of August 2019.

/s/ Michael H. Simon
Michael H. Simon
United States District Judge